

Housing and Property Chamber
First-tier Tribunal for Scotland



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber)**

Chamber Ref: FTS/HPC/CV/19/3916

Re: 49 McDowall Avenue, Ardrossan, Ayrshire KA22 7AJ ("Property")

Parties:

**Margaret Bennett, 16 Millglen Road, Ardrossan, Ayrshire KA22 7EA
("Applicant")**

**Taylor and Henderson, Solicitors, 83 Main Street, Kilwinning, Ayrshire KA13
6AN ("Applicant's Representative")**

**Cheryl Moorehead, 49 McDowall Avenue, Ardrossan, Ayrshire KA22 7AJ
("Respondent")**

Tribunal Members:

Joan Devine (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber)
("Tribunal") determined that an order for payment should be made.**

Background

The Applicant sought an order for payment of £685.96 in respect of arrears of rent. The Applicant had lodged with the Tribunal Form F. The documents produced were a Tenancy Agreement dated 13 February 2018, and a copy rent statement showing rent arrears of £685.96.

A Case Management Discussion (**CMD**) had taken place on 4 February 2020. The Applicant was in attendance at the CMD. The Respondent was not. The Respondent had however contacted the Tribunal by email and indicated that she wished to seek time to pay. At the CMD amendment of the Application was permitted to increase the sum sought to £841.16. The CMD was adjourned to 13 March 2020 at 2pm. The Legal Member issued a direction following the CMD in terms of which the Respondent was directed to complete the requisite form if she wished to apply for a time to pay direction and return this to the Tribunal by 18 February 2020. The

Respondent did not comply with the direction. No application for time to pay was lodged with the Tribunal.

Case Management Discussion ("CMD") on 13 March 2020

A CMD took place before the Tribunal on 13 March 2020 by conference call. The Applicant was represented by Mr Blair of the Applicant's Representative. The Applicant and Mr Bennett were also in attendance. There was no appearance on behalf of the Respondent. The Applicant's Representative sent an email to the Tribunal on 24 February 2020 in which he stated that the Applicant wished to amend the Application to increase the sum sought to £1,220.18. A statement of sums claimed was provided. A copy of the email was sent to the Respondent by email on 26 February 2020.

At the CMD on 13 March 2020 the Applicant's Representative told the Tribunal that the Deposit of £350 had been applied against the rent arrears which took the total due down to £870.18. The Tribunal asked the Applicant's Representative to explain the basis on which the Respondent could be liable to pay the sheriff officer's fee claimed of £52.02. The Applicant's Representative said that the Applicant was content to remove that sum from the amount claimed. That brought the total due to £818.16.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a Tenancy Agreement for the Property dated 13 August 2018.
2. The rent in terms of the Tenancy Agreement was £350 per month.
3. The Respondent had failed to make payment of rent due over the period September 2018 to 6 February 2020. The total outstanding was £ 1168.16.
4. The deposit paid by the Respondent at the commencement of the tenancy had been allocated to arrears of rent due. After that allocation a balance of £818.16 remained due.
5. The Respondent had vacated the Property.
6. Notice of the date of the hearing had been given to the Respondent by email on 17 February 2020.

Reasons for the Decision

The Tribunal determined to make an Order for payment of £818.16. Rent was lawfully due in terms of the Tenancy Agreement at the rate of £350 per month and a balance remained unpaid.

Decision

For the foregoing reasons, the Tribunal determined to make an Order for payment.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

J Devine

Joan Devine
Legal Member

13 March 2020
Date